

The New World Order in Historical Context: From 1990 to 2026

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Abstract

In three influential speeches delivered in 1990 and 1991, President George H. W. Bush described a “new world order” grounded in collective security, the rule of law, and a revitalized United Nations. This article traces the subsequent transformation of that idea through five phases: post–Cold War unipolarity and institutional idealism; the Kosovo intervention and the emergence of the responsibility to protect; post-9/11 exceptionalism and expanded claims of self-defense; pragmatic multilateralism and the development of cyber norms under Barack Obama; and the transactional conception of sovereignty associated with Donald Trump. The analysis focuses on the changing relationship among sovereign power, multilateral institutions, the law governing the use of force, and the attribution of hostile cyber operations. It argues that the original legal-institutional ambition of the “new world order” has increasingly yielded to a more contingent order in which legal commitments are assessed through immediate strategic utility. The conclusion considers the consequences of that shift for international legal stability.

Keywords: new world order; responsibility to protect; preventive self-defense; preemptive self-defense; cyber sovereignty; transactional sovereignty.

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1. Introduction

In three now-classic speeches, the first on September 11, 1990, before the U.S. Congress²; the second on October 1 of that same year, at the 45th Session of the United Nations General Assembly³, and the third on September 23, 1991,

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² George H. W. Bush, “Address Before a Joint Session of the Congress on the Persian Gulf Crisis and the Federal Budget Deficit,” September 11, 1990, *The American Presidency Project*, accessed August 27, 2026, <https://www.presidency.ucsb.edu/documents/address-before-joint-session-the-congress-the-persian-gulf-crisis-and-the-federal-budget>.

³ George H. W. Bush, “Address Before the 45th Session of the United Nations General Assembly

before the 46th Session of the United Nations General Assembly⁴, the President of the United States, George H.W. Bush, laid the foundations for what came to be called the "New World Order."

In the aftermath of the fall of the Berlin Wall, and in reaction to Iraq's invasion of Kuwait the previous month, amidst the collapse of the bipolar cold war order that had emerged from the end of World War II, and at a time when the United States was beginning to assert itself as the world's absolutely dominant power, George H. W. Bush announced in that inaugural speech the American resolve to construct a new paradigm of international law. This concept would facilitate the transition from a model of "balance of power" between the two cold war superpowers to a system based on the primacy of the rule of law, one in which the United Nations Security Council would regain the executive functionality that the veto power of its permanent members⁵ had effectively paralyzed since the Council's inception⁶.

"We stand today at a unique and extraordinary moment. The crisis in the Persian Gulf, as grave as it is, also offers a rare opportunity to move toward an historic period of cooperation. Out of these troubled times, our fifth objective - a new world order - can emerge: a new era freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace."⁷ A few weeks later, in a speech at the 45th Session of the United Nations General Assembly, the U.S. President went further, seeking to anchor the "New World Order" within the very organizational structure of the United Nations, proclaiming his conviction that, for the first time in history, a true "partnership of nations" would be possible, enabling the UN, at long last, to fulfill the original mission of its Charter, free from the constraints of the ideological veto that had hitherto paralyzed it: "The United Nations can help bring about a new day, a day when these kinds of terrible weapons and the terrible despots who would use them are both a thing of the past. It is in our hands to leave these dark machines behind, in the dark ages where they belong, and to press forward to cap a historic movement towards a new world order and a long era of peace [...]. We have a vision of a

in New York, New York," October 1, 1990, *The American Presidency Project*, accessed August 27, 2026, <https://www.presidency.ucsb.edu/documents/address-before-the-45th-session-the-united-nations-general-assembly-new-york-new-york>; United Nations General Assembly, 45th sess., 14th plen. mtg., U.N. Doc. A/45/PV.14 (October 1, 1990), 61, <https://digitallibrary.un.org/record/100185>.

⁴ George H. W. Bush, "Address to the 46th Session of the United Nations General Assembly in New York City," September 23, 1991, *The American Presidency Project*, accessed August 27, 2026, <https://www.presidency.ucsb.edu/documents/address-the-46th-session-the-united-nations-general-assembly-new-york-city>.

⁵ See Charter of the United Nations arts. 23(1), 27(3).

⁶ See U.N. Security Council Resolution 84, S/RES/84 (July 7, 1950), <https://digitallibrary.un.org/record/112027>; and U.N. Security Council Resolution 146, S/RES/146 (August 9, 1960), <https://digitallibrary.un.org/record/112110> (both accessed April 16, 2026).

⁷ Bush, "Address Before a Joint Session of the Congress."

new partnership of nations that transcends the cold war – a partnership based on consultation, co-operation and collective action, especially through international and regional organizations; a partnership United by principle and the rule of law, and supported by an equitable sharing of both cost and commitment; a partnership whose goals are to increase democracy, increase prosperity, increase the peace, and reduce arms.”⁸

The third speech, delivered approximately one year after the previous ones, took place within a distinct context, following the victory in Desert Storm Operation and the failure of the attempted coup in Moscow in August 1991, which sought to oust Mikhail Gorbachev and halt the processes of *Perestroika* (economic restructuring) and *Glasnost* (political openness). This occurred against a backdrop in which certain voices were raised to denounce the proclaimed “New World Order” as a mere euphemism intended to mask the actual and exclusive dominance of the United States within the new international order. With the Kuwait crisis resolved, and the response to Iraq’s unlawful aggression (a violation of Article 2, paragraph 4 of the United Nations Charter) successfully concluded, Bush (father) reaffirms the United States’ commitment to the path of a new world order, founded upon the rule of law and the absolute primacy of international law: “Where institutions of freedom have lain dormant, the United Nations can offer them new life. These institutions play a crucial role in our quest for a new world order, an order in which no nation must surrender one iota of its own sovereignty, an order characterized by the rule of law rather than the resort to force, the cooperative settlement of disputes rather than anarchy and bloodshed, and an unstinting belief in human rights.”

The optimism implicit in these speeches, to which Francis Fukuyama would give universal expression in his famous work *The End of History*⁹ would not, however, be borne out by time. The “New World Order”, heralded by George H. W. Bush, would give way, little more than three decades later, to what I shall here term Donald Trump’s “Newest World Order” recently consummated in the unilateral attacks (unilaterally decided upon, and lacking any explicit direct cause) launched by the U.S. against Venezuela and Iran: actions undertaken without a United Nations mandate and, in the latter case, despite the refusal of the requested participation of NATO member States.

It is a brief foray into the evolution of international law, and of the concept of the “New World Order” itself, from the era of George H. W. Bush to the present day that I shall attempt to outline in this paper.

⁸ Bush, “Address Before the 45th Session.”

⁹ Francis Fukuyama, *The End of History and the Last Man* (New York: Free Press, 1992).

2. The International Order

In a study about the evolution of the “New World Order,” it seems reasonable to establish, beforehand and comprehensively, the very concept of “World Order,” with a view to make clear the conceptual frameworks in which we operate.

In a world of national sovereignties, in the absence of a “world government” such as that which would be postulated by a radical and absolute cosmopolitanism, peace and legal security in international relations must be ensured by a set of norms, agreements, institutions of balance of power, and customary practices that guide and regulate the conduct of States and other subjects and actors in the global sphere¹⁰. It is this set that I call “World Order,” and its main objective is to prevent chaos, manage conflicts, and guarantee a degree of stability and predictability in international relations.

This order, in whatever form it may take, is essentially based on the definition of three structural pillars¹¹:

- In the way that military, economic, and technological power is divided among countries, embodying the power that ensures that the rules can be applied;
- In the consensus among States on what is acceptable, established on a legitimizing discourse of international law that includes respect for borders, sovereignty and diplomacy, preventing the system from degenerating into a state of permanent war;
- In the institutionalization of the entities that will order and shape the system, through the negotiation of the rules that will govern it and the mechanisms that will ensure its validity (for example, the UN and its agencies, or the World Trade Organization).

The “World Order” is obviously an ideal archetype, a mediating concept in international relations, rather than a finished, absolute, and immutable construct. Henry Kissinger even denied that a truly global “World Order” had ever existed, preferring instead a pragmatic and conflict-oriented view of international relations grounded in the concept of civilizations. From these civilizations, various orders emerged, not strictly global in scope, but rather more limited regional orders, albeit ones with global aspirations. Along these lines, he distinguished:

- A Westphalian Order, corresponding to European and Western civilization and rooted in the Peace of Westphalia of 1648. In this order, established to definitively transcend religious conflicts and wars, Europe grounded itself in the concept of State sovereignty and the principles of non-

¹⁰ Ian Brownlie, *Principles of Public International Law*, 7th ed. (Oxford: Oxford University Press, 2008), 507.

¹¹ See Henry Kissinger, *World Order* (New York: Penguin Press, 2014).

intervention in the internal affairs of other States. It pursued a balance of power constructed through a pluralistic and procedural framework, eschewing the imposition of a single moral or religious truth in favor of seeking stability through a balance of forces among independent States;

- An Islamic Order, characterized by a universalist and totalitarian religious vision that divides the world into *Dar al-Islam* (the House of Islam, or Peace) and *Dar al-Harb* (the House of War, where the Islamic faith does not yet prevail). This order rejects the Westphalian system, as its ultimate objective is a unified world order governed by religion (the *Ummah*); consequently, it gives rise to radicalized groups for whom the imposition of Allah's law is an imperative that neither acknowledges nor respects the borders of sovereign nation-States;

- The Sinocentric Order, wherein, preserving a deep cultural memory of its traditional historical centrality, the Chinese Empire views itself as the center of the civilized world, governing "All Under Heaven" (*Tianxia*), and toward which all the peoples of the world naturally gravitate¹².

It was amidst the clash of these pluralistic tendencies that the United States established its global hegemony, operating within a permanent dialectical tension between the European Westphalian heritage and the idealism of a "moral exceptionalism" that proclaims American values, namely liberty, democracy, and human rights, as universal on the one hand; and the pragmatic realism of asserting American power and interests on the other. Paradoxically, its international policy oscillates between mere isolationism and moral crusades, thereby violating the Westphalian spirit of non-intervention, in an effort to bring the redemptive order of the "land of the free and (...) home of the brave" to the oppressed peoples of the world.

It is at the intersection of these internal and external contradictions that I believe one can find the key to understanding both the illusion and the disillusionment surrounding the "New World Order," as well as its evolution into the current "Newest World Order" of Donald Trump.

3. From Unipolarism to Institutional Idealism (1990-2000)

As we have seen, the "New World Order" was the model proposed by George H. W. Bush to replace the bipolar order established by the cold war, which was also overthrown with the fall of the Berlin Wall. From the new unipolar historical context, centered on the USA, emerged the idea of a supposed global convergence towards liberal constitutionalism and market economy, the extension of which to the entire world would be the direct and immediate consequence of the end of Soviet communism. The goal was, as mentioned, the transition from a system of balance of power between the two superpowers that

¹² See Henry Kissinger, *On China* (New York: Penguin Press, 2011).

emerged from World War II to a system based on the rule of law, where the United Nations Security Council would finally acquire the executive capacity to enforce international law.

The response to the Iraqi invasion of Kuwait (1990) served as the leading case for the new era. Security Council Resolution 678¹³ embodied the ideal of collective security foreseen in Chapter VII of the UN Charter. Legally, the US sought multilateral legitimacy, reaffirming the principle of State sovereignty and the prohibition of the use of force, enshrined in Article 2, paragraph 4 of the Charter.

However, soon there were those who warned of the excessive optimism implied in the central idea of the "New World Order" that it would always be possible to reconcile international security with justice, and eliminate the constant latent tension between the coercive powers of the Security Council, intended to ensure world order, and the core function of the UN General Assembly in promoting justice in relations between peoples, making the strength of the former an extension of the ambitions of the latter. In this regard, Martti Koskenniemi wrote: "The competence of the UN relates to questions of order (power) and of justice (authority) but cannot be reduced to either one. The Organization is neither simply a policeman nor a Temple of Justice - though in its individual actions it tends to show itself as one or the other [...]. This dichotomy between *hard* UN (political activities for which the Security Council is mainly responsible) and *soft* UN (activities for which the General Assembly - through the ECOSOC - is mainly responsible) is functionally and ideologically the most significant structuring feature of the organization [...]. Now the position of the Security Council under the UN Charter is [...] that of the technician of peace, the police. Its composition, procedures and practices are completely indefensible if we assume that its tasks extend to assessing and enforcing the conditions of the good life - including rules of international law - among and within States." And he concluded "justice - unlike order - cannot be created out of the barrel of a gun. A policeman and a Temple of Justice: neither has been a tremendous success [...]. The peace of the police is not the calm of the temple but the silence of the tomb."¹⁴

The first rupture in this system of legitimation, proposed by President George H. W. Bush, occurred during the presidency of Bill Clinton, with NATO's intervention in Kosovo in 1999, undertaken without the express authorization of the United Nations Security Council. Faced with the threat of a veto by Russia and China within the UN Security Council, Clinton decided to proceed with NATO airstrikes against Slobodan Milošević's Yugoslavia, without formal UN

¹³ U.N. Security Council Resolution 678, S/RES/678 (November 29, 1990), <https://digitallibrary.un.org/record/102245> (accessed April 16, 2026).

¹⁴ Martti Koskenniemi, "The Police in the Temple: Order, Justice and the UN: A Dialectical View," *European Journal of International Law* 6, no. 3 (1995): 325–48, <https://doi.org/10.1093/oxfordjournals.ejil.a035924>.

authorization. Clinton argued at the time that the international community could not stand idly by while the "ethnic cleansing" of Kosovo Albanians was taking place, and that the U.S. and its allies ought to intervene to halt genocide or crimes against humanity whenever they possessed the capacity to do so, regardless of national borders. He cited the failures in Rwanda and Bosnia to justify his decision not to wait once again: „We intervened militarily in Kosovo because I believe that when ethnic hatred and fighting turns into the mass slaughter and uprooting of totally innocent civilians, if we have the power to stop it, we ought to. It took us 4 years before action was taken in Bosnia when the same thing happened, and by that time a quarter of a million people had died, and 2 1/2 million people had become refugees. In Rwanda 700,000 people were slaughtered in just 100 days [...]. And, today, the NATO forces, the British defense, the Americans, and others to come – soon to be nearly 30 countries – moved into Kosovo. We are determined to reverse the ethnic cleansing. We look forward to working with Russia and others who may not have agreed with our military campaign, but do agree with the proposition that all the people of that tiny land – Serb and Albanian alike – should be able to live in peace and dignity.”¹⁵

This marked the genesis of the so-called doctrine of the Responsibility to Protect (R2P), which would eventually find formal expression in Resolution A/RES/60/1 of September 16, 2005¹⁶, paragraphs 138 and 139, which established the three pillars of R2P:

- Each State has the primary duty to protect its own population from four specific crimes: genocide, war crimes, ethnic cleansing, and crimes against humanity;

- The international community has the duty to assist States in fulfilling the aforementioned duty by preventing crises that could lead to the commission of those crimes, through technical, diplomatic, or humanitarian support, or other peaceful means appropriate for this purpose;

- If a State manifestly fails to protect its population (or if it is itself the aggressor), the international community has the duty to take whatever collective action proves necessary, beginning with diplomatic measures and economic sanctions, but without, subject to authorization by the Security Council, ruling out military intervention¹⁷.

The requirement for Security Council authorization, with the paralyzing effect of the veto power held by its permanent members, soon exposed the limited

¹⁵ William J. Clinton, “Commencement Address at the University of Chicago in Chicago, Illinois,” June 12, 1999, *The American Presidency Project*, accessed April 16, 2026, <https://www.presidency.ucsbl.edu/documents/commencement-address-the-university-chicago-chicago-illinois>.

¹⁶ United Nations General Assembly, “2005 World Summit Outcome,” A/RES/60/1 (September 16, 2005), <https://digitallibrary.un.org/record/556636> (accessed April 16, 2026).

¹⁷ See Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington, DC: Brookings Institution Press, 2008).

ambition of the R2P doctrine. It was promptly denounced by skeptics¹⁸ as a mere political slogan devoid of substantive effect, embodied in rhetoric of good intentions but resulting in no actual changes to State conduct, thereby creating a false illusion of moral progress.

R2P persists as an aspiration frequently invoked within academic and NGO circles. In the realm of U.S. presidential doctrine, however, the attacks on the Twin Towers on September 11, 2001, would precipitate a definitive break with the preceding decade and usher in the doctrine of exceptionalism.

4. Exceptionalism and the Rupture with the *Jus Ad Bellum* (2001-2008)

The terrorist attack on the Twin Towers in New York on September 11, 2001, dictated a radical shift in the U.S. Presidency's worldview regarding international law. This led President George W. Bush to definitively abandon the "New World Order" as conceived by his father, a framework grounded in the paradigm of the rule of law, promoted by the community of nations, and ideally guaranteed by the United Nations Security Council, which was, at long last, freed from the shackles that had stifled it during the bygone era of the cold war. The attack on the Towers triggered a critical revision of this doctrine. The United States revived the concept of sovereignty championed in the 1920s by Carl Schmitt: "Sovereign is he who decides on the exception."¹⁹

Since no legal norm can foresee every conceivable scenario of danger, legal situations may arise that necessitate the suspension of such norms, though not the suspension of the law itself. Consequently, the sovereign's authority does not emanate from written law, but rather from the capacity to decide when the law must be suspended in order to preserve the State.

It was precisely to this supreme and exceptional state of peril that the U.S. Presidency appealed in the aftermath of September 11; by invoking sovereignty as a security prerogative. It asserted the right to suspend Article 2, paragraph 4, of the United Nations Charter and introduced the concept of "preventive self-defense". The theory of preventive self-defense served to radicalize the classical notion of "preemptive self-defense", a doctrine founded upon three criteria that came to be known as the "Caroline Test," derived from the historic incident of 1837²⁰:

¹⁸ See Aidan Hehir, *The Responsibility to Protect: Rhetoric, Reality and the Future of Humanitarian Intervention* (Basingstoke: Palgrave Macmillan, 2012).

¹⁹ Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, ed. and trans. George Schwab, foreword by Tracy B. Strong (Chicago: University of Chicago Press, 2005), 6.

²⁰ See "British-American Diplomacy: The Caroline Case," *Avalon Project*, Lillian Goldman Law Library, Yale Law School, accessed April 16, 2026, https://avalon.law.yale.edu/19th_century/br-1842d.asp.

- An instant and overwhelming necessity to resort to force, leaving no choice of means, and no moment for deliberation;
- A danger that is imminent, one that is about to occur, such that a merely latent or future threat is insufficient to justify action;
- A proportionate armed response, strictly limited to what is necessary to eliminate the threat, and avoiding any action that is unreasonable or excessive.

Going beyond these criteria, George W. Bush asserted that, in the era of terrorism and weapons of mass destruction, waiting for the absolute imminence envisaged in the second criterion is dangerous; he therefore advocated for preemptive strikes against threats while they are still in their formative stages²¹. Concurrently, and updating the customary doctrine of "unwilling or unable" (where a State is either incapable of or unwilling to contain a threat), he claimed the right to self-defense against non-State groups operating within foreign territory, even where the host State itself was not the direct aggressor. This stance altered the traditional thesis, under which the exercise of self-defense presupposed an "armed attack" originating from another State.

While the Bush doctrine of "preventive self-defense", aside from its *de facto* invocation in an attempt to justify the 2003 invasion of Iraq, never advanced beyond the realm of *lex ferenda* (being viewed by the majority of international legal scholars as a clear violation of the *jus cogens* norm prohibiting aggression), the right to self-defense against non-State terrorist groups was ultimately embraced by UN Security Council Resolutions 1368 (2001)²² and 1373 (2001)²³.

Universally rejected for, in going beyond the mere suspension of norms advocated by Carl Schmitt's theory of the "state of exception, as "it entailed a true negation of the very concept of law, was the legal category of the "unlawful enemy combatant." This category, which effectively denied the applicability of International Humanitarian Law, was one that the Bush Administration sought to apply (and, indeed, did apply) to Taliban and Al-Qaeda fighters. In doing so, it advanced a restrictive interpretation of Article 4 of the Third Geneva Convention, denying these individuals prisoner-of-war status and arguing that, as "unprivileged combatants", they could be detained indefinitely, without the protections afforded to prisoners of war and without the procedural rights typically granted to a defendant in a court of law. And some prisoners still remain at Guantanamo, serving as a reminder of the factual force of the category of "unlawful enemy combatant", one which the academic community of

²¹ See White House, *The National Security Strategy of the United States of America* (Washington, DC, September 2002), accessed April 16, 2026, <https://georgewbush-whitehouse.archives.gov/nsc/nss/2002/>.

²² U.N. Security Council Resolution 1368, S/RES/1368 (September 12, 2001), <https://digitallibrary.un.org/record/448051> (accessed April 16, 2026).

²³ U.N. Security Council Resolution 1373, S/RES/1373 (September 28, 2001), <https://digitallibrary.un.org/record/449020> (accessed April 16, 2026).

international legal scholars has never recognized.

5. Pragmatic Multilateralism and the Challenges of Cyber-Sovereignty (2009-2016)

Barack Obama's two terms in office were characterized by a gradual return to multilateralism, now driven by the pragmatic need to address the new problems posed by technological development and the challenges of the so-called information society. It was the moment of the institutionalization of so-called pragmatic multilateralism, which, moving away from the assertive unilateralism of the George W. Bush era, returned to the search for minimal consensus in multilateral forums (such as the UN), without, however, abandoning *ad hoc* coalitions or the effective normative leadership of the U.S. when strategic national interests were at stake.

In terms of normative restoration²⁴, the signing of the Paris Agreement on Climate Change and the nuclear agreement with Iran (JCPOA — Joint Comprehensive Plan of Action), which sought to ensure the exclusively civilian nature of Iran's nuclear program, stand out in particular.

However, the true pragmatic innovation of the Obama Administration in the field of international relations laid in its new approach to the information society, specifically in the assertion, made in opposition to China and Russia, which advocated the concept of "cyber-sovereignty" (founded upon total control over infrastructure and information flows within national borders), of the inherently transnational nature of the network. This approach promoted the network's management and governance by a multiplicity of actors and agents drawn from civil society, private sector, and States, while expressly declaring that State sovereignty is not absolute within cyberspace; rather cyberspace remains subject to the rules of international law, most notably the United Nations Charter and International Humanitarian Law.

It was this very doctrine that the United States successfully established in 2013 through the United Nations General Assembly's 2013 GGE Report (A/68/98)²⁵, the 19th paragraph of which expressly mentions: "International law, and in particular the Charter of the United Nations, is applicable and is essential to maintaining peace and stability and promoting an open, secure, peaceful and accessible ICT environment." This spirit was developed and detailed in the 2015

²⁴ Although also used to characterize the return to multilateralism during Barack Obama's terms, the concept of normative restoration gained particular traction during Joe Biden's presidency, viewed by some as a sort of third Obama term, following the interregnum of Donald Trump's first term.

²⁵ See United Nations General Assembly, "Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security: Note by the Secretary-General," A/68/98 (June 24, 2013), <https://digitallibrary.un.org/record/753055> (accessed April 16, 2026).

GGE Report (A/70/174)²⁶ of the United Nations General Assembly. In paragraph 24, the report reaffirms the applicability of the UN Charter in its entirety; the whole doctrine established therein can be summarized in the declaration of the following principles:

- Each State must be able to maintain control over Information Technology (IT) infrastructure within its territory (State sovereignty);
- Each State must refrain from interfering in the internal affairs of other States through digital means (non-interference);
- In the event of a conflict, diplomatic means should be prioritized to resolve it before resorting to any form of retaliation (peaceful resolution of disputes);
- Freedom of expression and privacy must be protected online (human rights)²⁷.

The principle of non-interference is particularly controversial and complex, especially when it comes to demonstrating the convergence of the prerequisites for unlawfulness, culpability, and a causal link, as defined by the articles of the International Law Commission (ILC), in order for a State to be held responsible for an internationally wrongful act; examples include North Korea's attack on Sony Pictures in 2014 or alleged Russian interference in the 2016 elections.

The central question in this context lies in determining when a cyberattack ceases to be merely espionage or a criminal act and becomes a violation of Article 2, paragraph 4, of the United Nations Charter, which prohibits the use of force in international relations.

With its characteristic pragmatism, the Obama Administration sought to circumvent the difficulties raised by replacing the concept of *legal attribution* (usually included in the concept of *attribution of conduct to a State* within *State responsibility*) with *political attribution* (also referred to as *public attribution* or the process of *naming and shaming*).

Whereas, under the doctrine of *legal attribution*, a cyberattack can only be legally attributed if it is proven to have been perpetrated by an organ of the attacking State (e.g. a military unit or an intelligence service), or by individuals acting under the instruction, direction, or control of the attacking State, which is

²⁶ See United Nations General Assembly, "Group of Governmental Experts on Developments in the Field of Information and Telecommunications in the Context of International Security: Note by the Secretary-General," A/70/174 (July 22, 2015), <https://digitallibrary.un.org/record/799853> (accessed April 16, 2026).

²⁷ See also United Nations General Assembly, "Group of Governmental Experts on Advancing Responsible State Behaviour in Cyberspace in the Context of International Security: Note by the Secretary-General," A/76/135 (July 14, 2021), <https://digitallibrary.un.org/record/3934214>; and Anna-Maria Osula and Henry Rõigas, eds., *International Cyber Norms: Legal, Policy & Industry Perspectives* (Tallinn: NATO CCD COE Publications, 2016), <https://ccdcoe.org/library/publications/international-cyber-norms-legal-policy-industry-perspectives/> (both accessed April 16, 2026).

difficult or almost impossible to prove in cases involving attacks carried out by proxies or "patriotic" hacker groups, *political attribution* does not entail the rigorous evidentiary standards of a judicial proceeding. Instead, it is limited to a discretionary act by the attacked State, manifesting a strategic intent to signal that anonymity has ended, through a deliberate *indict and shame* action aimed at using public denunciation to bring the attack to a halt and/or to shift the burden of proving innocence back onto the attacker.

In 2014, by indicting five members of China's People's Liberation Army, thereby signaling the United States would no longer tolerate acts of economic and cyber espionage being pursued under the guise of ordinary business dealings²⁸, Barack Obama inaugurated the practice of *indict and shame*. He transformed purely technical intelligence findings into public charges, lacking the legal force required to withstand scrutiny "beyond a reasonable doubt", thereby forcing a broader discussion regarding the threshold for the "use of force" under Article 2(4) of the United Nations Charter, as well as the scope for the exercise of self-defense under Article 51. In so doing, he transformed a matter of national security into an issue of International Criminal Law, making it clear that, in the view of the United States, sovereignty cannot be used as a shield for acts of transnational criminality, even when such acts are committed by State agents (*ratione personae*). As a result of this, the doctrine advanced by President Obama's State Department Legal Adviser, Harold Koh, originally conceived primarily to justify the legality of drone use and targeted strikes in counterterrorism operations, took hold; it posited that what matters is not the nature of the weapon employed (physical versus digital), but rather its effects.²⁹

In this context, if a cyberattack results in death, injury, or physical destruction (for example, the downing of an aircraft), it will be classified as constituting use of force in contravention of Article 2, paragraph 4, of the United Nations Charter, thereby rendering the exercise of the right to self-defense, enshrined in Article 51, lawful. Conversely, if the attack is limited to causing massive economic damage (as in the case of North Korea's attack on Sony Pictures), but involves no "blood or explosions," it will be classified, under Executive Order 13694 of April 1, 2015³⁰, as falling within the scope of

²⁸ See U.S. Department of Justice, "U.S. Charges Five Chinese Military Hackers for Cyber Espionage against U.S. Corporations and a Labor Organization for Commercial Advantage," press release, May 19, 2014, accessed April 16, 2026, <https://www.justice.gov/archives/opa/pr/us-char-ge-five-chinese-military-hackers-cyber-espionage-against-us-corporations-and-labor>.

²⁹ See Harold Hongju Koh, "The Obama Administration and International Law," remarks at the Annual Meeting of the American Society of International Law, Washington, DC, March 25, 2010, U.S. Department of State, accessed April 16, 2026, <https://2009-2017.state.gov/s/l/releases/remarks/139119.htm>.

³⁰ See Executive Order 13694, "Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities," April 1, 2015, 80 Fed. Reg. 18077 (April 2, 2015), <https://www.federalregister.gov/documents/2015/04/02/2015-07788/blocking-the-property-of-certain-pe>

"Significant Malicious Cyber-Enabled Activities." This classification entails the possibility of applying economic sanctions (such as asset freezes) or proportional countermeasures designed to compel the aggressor to cease the aggression, without, however, escalating to a formal state of war.

6. The Disruption: Transactional sovereignty and the Crisis of Multilateralism (2017-2021; 2025-2026)

Culminating the trajectory initiated during his first term, between 2017 and 2021 (Joe Biden's tenure served merely as an interregnum, manifesting as an attempted return to the multilateralism of Barack Obama), Donald Trump's presidency now represents, following the first year of his second term, a complete rupture with the World Order that emerged from the fall of the Berlin Wall and the end of the cold war. This rupture is such that it no longer makes sense to speak of a "New World Order" in the sense envisioned by George H. W. Bush; rather, it has become imperative to acknowledge that we are facing a radically distinct reality, one that is best designated as the "Newest World Order."

Notwithstanding its name, the Newest World Order represents a return to the sovereignty ethos of 19th century powers, marking an absolute regression in the trajectory of international constitutionalism which was moving toward a cosmopolitanism such as that advocated, for instance, by Habermas³¹.

Jeopardizing the principle of trust in international relations, and denying the ordering, axiological nature of international law in shaping State conduct, Donald Trump's Newest World Order is characterized essentially by the functionalization of international relations, reducing them to a contingent and disposable dimension. This is achieved through the systematic erosion of the *pacta sunt servanda* principle, manifested in the unilateral and purely voluntaristic denunciation of international treaties (e.g., the Paris Agreement on Climate Change or the JCPOA—Joint Comprehensive Plan of Action); in the withdrawal from international organizations foundational to the contemporary legal order, such as UNESCO or the World Health Organization (WHO); or in the boycotting of the regular functioning of international institutions (most notably, the World Trade Organization). Ultimately, this constitutes a frontal denial of the binding nature of Article 26 of the Vienna Convention on the Law of Treaties, a denial that effectively amounts to a rejection of the very jurisdictional authority of international law, replacing it instead with the mere expression of sovereign State power. In this context, international agreements cease to be viewed as regulatory instruments for stability and enduring international cooperation, assuming instead the volatile nature of mere contracts

nsions-engaging-in-significant-malicious-cyber-enabled-activities (accessed April 16, 2026).

³¹ See Jürgen Habermas, *The Inclusion of the Other: Studies in Political Theory*, ed. Ciaran P. Cronin and Pablo De Greiff (Cambridge, MA: MIT Press, 1998).

of adhesion, freely revocable by the stronger party based on the criterion of the sovereign State's immediate utility, within a model that Stewart M. Patrick has characterized as a transition from a "rules-based order" to a "transactions-based order",³² marking a return to the 19th century ultra-realism of Lord Palmerston, according to which States "have no permanent allies, but only permanent interests."

It is the domain of transactional sovereignty, a negation of post-cold war multilateralism, now marked by the normative force of facts and the volatility of international ties, generated and revoked according to the demands of the moment, in a context of generalized unpredictability, accentuated by the constant and subversive recourse to exceptional emergency powers (especially the International Emergency Economic Powers Act – IEEPA), used to pursue strict domestic policies, in an experimental method of variable action, with advances and retreats dictated by the conjunctural effects of the decisions taken, in a permanent state of emergency that alternates and hesitates between the interventionist temptation to protect and assert American power and the isolationist program presupposed in the project of making America great again.

7. Conclusion

It is still too early to attempt conclusions, even provisional ones, about the effects of Donald Trump's Newest World Order.

It is safe to say that the Kantian optimism of the "community of law," dreamed of by the Presidency of George H. W. Bush, has given way to a system of power balance where the legal norm is systematically functionalized and placed at the service of the voluntarist exercise of *realpolitik*, with the weakening of *jus cogens*, in an accelerated process of erosion of the effectiveness of the imperative norms of General International Law, in the face of sovereignty interpretations that privilege the exceptionalism dictated by the survival needs of the State. The conviction of legal obligation (*opinio juris*) is being replaced by an *opinio necessitatis* of a security nature founded on *raison d'Etat*. The validity of the norm no longer stems from multilateral consensus, but from its necessity for maintaining the stability of the power of whoever dictates the norm.

It also seems certain that the change is definitive. We will not return to the past. What future are we heading towards? No one would dare to anticipate it. Minerva's owl only takes flight when the day is over.

³² See Stewart M. Patrick, *The Sovereignty Wars: Reconciling America with the World* (Washington, DC: Brookings Institution Press, 2018).

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